

CHAPTER 144NATURAL RESOURCES —
CONSERVATION AND RECREATION ACTIVITIES

H.F. 722

AN ACT relating to regulation of certain conservation and recreation activities under the jurisdiction of the department of natural resources, modifying fees, establishing an upland game bird study advisory committee, making penalties applicable, and providing an immediate effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 321G.2, subsection 1, paragraph e, Code 2009, is amended to read as follows:

e. Establishment of a program of grants, subgrants, and contracts to be administered by the department for the development and ~~delivery of certified courses of instruction for the safe use and operation of snowmobiles, maintenance, and operation of designated snowmobile trails and grooming equipment~~ by political subdivisions and incorporated private organizations.

Sec. 2. Section 321G.2, subsection 1, Code 2009, is amended by adding the following new paragraphs:

NEW PARAGRAPH. i. Establishment of a certified education course for the operation of snowmobile grooming equipment.

NEW PARAGRAPH. j. Establishment of a certified education course for the safe use and operation of snowmobiles.

NEW PARAGRAPH. k. Certification of volunteer snowmobile education instructors.

Sec. 3. Section 321G.11, subsection 1, Code 2009, is amended by striking the subsection and inserting in lieu thereof the following:

1. The exhaust of every internal combustion engine used in any snowmobile shall be effectively muffled by equipment constructed and used to muffle all snowmobile noise in a reasonable manner in accordance with rules adopted by the commission.

Sec. 4. Section 321G.21, subsection 9, Code 2009, is amended to read as follows:

9. The ~~department~~ commission may adopt rules consistent with this chapter establishing minimum requirements for dealers. In adopting such rules, the ~~department~~ commission shall consider the need to protect persons, property, and the environment and to promote uniformity of practices relating to the sale and use of snowmobiles. The commission may also adopt rules providing for the suspension or revocation of a dealer's special registration certificate issued pursuant to this section.

Sec. 5. Section 321G.24, subsection 3, Code 2009, is amended to read as follows:

3. Any person who is required to have a safety certificate under this chapter and who has completed a course of instruction established under section 321G.2, subsection 1, paragraph "e" "j", including the successful passage of an examination which includes a written test relating to such course of instruction, shall be considered qualified to ~~apply for~~ receive a safety certificate. ~~The commission may waive the requirement of completing such course of instruction if such person successfully passes a written test based on such course of instruction.~~

Sec. 6. Section 321I.1, subsection 1, paragraph c, Code 2009, is amended by striking the paragraph.

Sec. 7. Section 321I.1, subsection 16, Code 2009, is amended to read as follows:

16. a. "Off-road utility vehicle" means a motorized flotation-tire vehicle with not less than four and not more than ~~six~~ eight low-pressure tires that is limited in engine displacement to

less than one thousand five hundred cubic centimeters and in total dry weight to not more than one thousand eight hundred pounds and that has a seat that is of bucket or bench design, not intended to be straddled by the operator, and a steering wheel or control levers for control.

b. An owner of an off-road utility vehicle may register or title an off-road utility vehicle in order to legally operate the off-road vehicle on public ice, a designated riding area, or a designated riding trail. The operator of an off-road utility vehicle is subject to provisions governing the operation of all-terrain vehicles in section 321.234A and this chapter, but is exempt from the safety instruction and certification program requirements of sections 321I.25 and 321I.26. An operator of an off-road utility vehicle shall not operate the vehicle on a designated riding area or designated riding trail unless the department has posted signage indicating the riding area or trail is open to the operation of off-road utility vehicles. Off-road utility vehicles are exempt from the dealer registration and titling requirements of this chapter. A motorized vehicle that was previously titled or is currently titled under chapter 321 shall not be registered or operated as an off-road utility vehicle.

Sec. 8. Section 321I.2, subsection 1, paragraph e, Code 2009, is amended to read as follows:

e. Establishment of a program of grants, subgrants, and contracts to be administered by the department for the development and delivery of certified courses of instruction for the safe use and operation of all-terrain vehicles, maintenance, and operation of designated all-terrain vehicle riding areas and trails by political subdivisions and incorporated private organizations.

Sec. 9. Section 321I.2, subsection 1, paragraph i, Code 2009, is amended by striking the paragraph and inserting in lieu thereof the following:

i. Establishment of a certified education course for the safe use and operation of all-terrain vehicles.

Sec. 10. Section 321I.2, subsection 1, Code 2009, is amended by adding the following new paragraph:

NEW PARAGRAPH. j. Certification of volunteer all-terrain vehicle education instructors.

Sec. 11. Section 321I.22, subsection 9, Code 2009, is amended to read as follows:

9. The department commission may adopt rules consistent with this chapter establishing minimum requirements for dealers. In adopting such rules, the department shall consider the need to protect persons, property, and the environment and to promote uniformity of practices relating to the sale and use of all-terrain vehicles. The commission may also adopt rules providing for the suspension or revocation of a dealer's special registration certificate issued pursuant to this section.

Sec. 12. Section 321I.26, subsection 3, Code 2009, is amended to read as follows:

3. Any person who is required to have a safety certificate under this chapter and who has completed a course of instruction established under section 321I.2, subsection 1, paragraph "e" "i", including the successful passage of an examination which includes either a written test relating to such course of instruction or the demonstration of adequate riding skills, shall be considered qualified to apply for receive a safety certificate. The commission may waive the requirement of completing such course of instruction if such person successfully passes a written test based on such course of instruction.

Sec. 13. Section 452A.17, subsection 1, paragraph a, subparagraph (7), Code 2009, is amended to read as follows:

(7) A bona fide commercial fisher, licensed and operating under an owner's certificate for commercial fishing gear issued pursuant to section 482.4.

Sec. 14. Section 464A.11, subsection 2, unnumbered paragraph 1, Code 2009, is amended to read as follows:

In administering the water trails and low head dam public hazard program, the department

shall conduct a study of waterways for recreational purposes and develop a statewide plan by ~~January 1~~ March 31, 2010. Elements of the plan shall include but not be limited to:

Sec. 15. Section 481A.19, subsection 1, paragraph b, Code 2009, is amended to read as follows:

b. Any person licensed by the authority of Illinois, Minnesota, Missouri, Wisconsin, Nebraska, or South Dakota to take fish, game, mussels, or fur-bearing animals from or in lands under the jurisdiction of any of those states may take such fish, game, mussels, or fur-bearing animals from or in lands under the jurisdiction of the commission when such land is wholly surrounded by adjacent to that respective state but is separated from other land in Iowa by a body of water, without having procured a license from the director of this state, in the same manner that persons holding Iowa licenses may do, if the laws of Illinois, Minnesota, Missouri, Wisconsin, Nebraska, or South Dakota, respectively, extend a similar privilege to persons so licensed under the laws of Iowa.

Sec. 16. Section 481A.19, subsection 2, Code 2009, is amended to read as follows:

2. Any privileges conferred by this section shall be subject to a reciprocal agreement as negotiated by the commission and the authority of a state provided in subsection 1 which confers upon a licensee of this state reciprocal rights, privileges, and immunities as provided in section 483A.31. Such agreements may include determination of which state's seasons and limits shall apply for specific geographical areas.

Sec. 17. Section 481A.122, Code 2009, is amended by adding the following new subsection: NEW SUBSECTION. 3. This section is not applicable to a person who is legally hunting with a raptor.

Sec. 18. Section 481A.130, subsection 1, paragraphs d and e, Code 2009, are amended to read as follows:

d. For each fish, reptile, mussel, or amphibian, fifteen dollars.

e. For each beaver, bobcat, mink, otter, red fox, gray fox, or raccoon, two hundred dollars.

Sec. 19. Section 481A.130, subsection 1, Code 2009, is amended by adding the following new paragraph:

NEW PARAGRAPH. i. For each fish, reimbursement shall be as follows:

(1) For each fish of a species other than shovelnose sturgeon, with an established daily limit greater than twenty-five, fifteen dollars.

(2) For each fish of a species other than paddlefish and muskellunge, with an established daily limit of twenty-five or less, fifty dollars.

(3) For each shovelnose sturgeon, paddlefish, and muskellunge, one thousand dollars.

Sec. 20. Section 481A.130, Code 2009, is amended by adding the following new subsection: NEW SUBSECTION. 4. This section does not apply to a person who is liable to pay restitution to the department pursuant to section 481A.151 for injury to a wild animal caused by polluting a water of this state in violation of state law.

Sec. 21. Section 482.1, Code 2009, is amended to read as follows:

482.1 AUTHORITY OF THE COMMISSION.

1. The natural resource commission shall observe, administer, and enforce this chapter. The natural resource commission may adopt and enforce rules under chapter 17A as necessary to carry out this chapter.

2. The natural resource commission may:

1. a. Remove or cause to be removed from the waters of the state any aquatic species that in the judgment of the commission is an underused renewable resource or has a detrimental effect on other aquatic populations. All proceeds from a sale of these aquatic organisms shall be credited to the state fish and game protection fund.

2. ~~b.~~ Issue to any person a permit or license authorizing that person to take, possess, and sell underused, undesirable, or injurious aquatic organisms from the waters of the state. The person receiving a permit or license shall comply with the applicable provisions of this chapter.

3. ~~c.~~ Authorize the director to enter into written contracts for the removal of underused, undesirable, or injurious organisms from the waters of the state. The contracts shall specify all terms and conditions desired. Sections 482.4, 482.6, and 482.14 do not apply to these contracts.

4. ~~d.~~ Prohibit, restrict, or regulate commercial fishing, and commercial turtle fishing, and commercial mussel fishing harvesting in any waters of the state.

5. ~~e.~~ Revoke the license of a licensee ~~and the licensee's designated operators~~ for up to one year if the licensee ~~or any designated operator~~ has been convicted of a violation of chapter 481A, 482, or 483A. A licensee shall not continue commercial fishing while a license issued by the natural resource commission or issued by another state is under revocation or suspension.

6. ~~f.~~ Regulate the numbers of commercial fishers, and commercial turtle fishers, and commercial mussel fishers harvesters and the amount, type, seasonal use, mesh size, construction and design, manner of use, and other criteria relating to the use of commercial gear for any body of water or part thereof.

7. ~~g.~~ Establish catch quotas, seasons, size limits, and other regulations for any species of commercial fish, or turtles, or mussels for any body of water or part thereof.

8. ~~h.~~ Designate by listing species as commercial fish, or turtles, or mussels.

9. ~~i.~~ Designate any body of water or its part as protected habitat and restrict, prohibit, or otherwise regulate the taking of commercial fish, and turtles, and mussels in protected habitat areas.

3. Employees of the ~~commission~~ department may lift and inspect any commercial gear at any time ~~when being used~~ and may inspect commercial catches, commercial markets, and landings, and examine ~~catch~~ sale and purchase records of commercial fishers, commercial turtle fishers harvesters, and commercial mussel fishers roe harvesters, commercial turtle buyers, and commercial roe buyers upon demand.

4. Officers ~~Employees~~ of the ~~commission~~ department may seize and retain as evidence any illegal fish, or turtles, or mussels, or any illegal commercial gear, or any other personal property used in violation of any provision of the Code, and may confiscate any untagged or illegal commercial gear as contraband.

Sec. 22. Section 482.2, Code 2009, is amended to read as follows:

482.2 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "Boundary waters" means the waters of the Mississippi, Missouri, and Big Sioux rivers.

2. "Commercial fish helper" means a person who is licensed by the state to assist a commercial fisher or a commercial roe harvester in operating commercial gear or in taking, attempting to take, possessing, or transporting commercial fish, roe species, roe, or turtles.

2. ~~3.~~ "Commercial fisher" means a person who is licensed by the state to take ~~and sell fish from waters of the state, attempt to take, possess, transport, sell, barter, or trade turtles or turtle eggs, commercial fish except roe species, or fish parts except roe.~~

3. ~~4.~~ "Commercial fishing" means taking, attempting to take, possessing, or transporting of commercial fish or turtles for the purpose of selling, bartering, exchanging trading, offering, or exposing for sale.

4. ~~5.~~ "Commercial gear" means the capturing equipment used by commercial fishers, commercial roe harvesters, and commercial turtle fishers, and commercial mussel fishers harvesters.

5. "Commercial mussel fisher" means a person who is licensed to take and sell freshwater mussels from waters of the state. ~~A resident commercial mussel license holder must have resided in this state for one year preceding the person's application for a commercial mussel fishing license.~~

~~6. “Commercial mussel fishing” means taking, attempting to take, or transporting of freshwater mussels for the purpose of selling, bartering, exchanging, offering, or exposing for sale.~~

~~6. “Commercial roe buyer” means a person who is licensed by the state to engage in the business of buying, selling, bartering, or trading of roe and roe species.~~

~~7. “Commercial roe harvester” means a person who is licensed by the state to engage in the harvest and sale, barter, or trade of roe and roe species.~~

~~7. 8. “Commercial species” means species of fish, and turtles, and freshwater mussels which may be lawfully taken and sold by commercial fishers, commercial roe harvesters, and commercial turtle fishers harvesters, and commercial mussel fishers, as established by rule by the commission.~~

~~9. “Commercial turtle buyer” means a person who is licensed by the state to engage in the business of buying, selling, bartering, or trading commercial turtles or turtle eggs.~~

~~9. 10. “Commercial turtle fishing” harvesting” means taking, attempting to take, possessing, or transporting of commercial turtles or turtle eggs for the purpose of selling, bartering, exchanging trading, offering, or exposing for sale.~~

~~8. 11. “Commercial turtle fisher” harvester” means a person who is licensed by the state to take, attempt to take, possess, transport, and sell, barter, or trade commercial turtles from the waters of the state or turtle eggs.~~

~~12. “Commercial turtle helper” means a person who is licensed by the state to assist a commercial turtle harvester in operating commercial gear, or in taking, attempting to take, possessing, or transporting commercial turtles or turtle eggs.~~

~~10. 13. “Constant attendance” means the presence of a commercial fisher or a designated operator whenever commercial gear is in use.~~

~~11. 14. “Director” means the director of the department of natural resources, and the director’s duly authorized assistants, deputies, or agents.~~

~~12. 15. “Game fish” means all species and size categories of fish not included as “commercial species” or minnows.~~

~~13. 16. “Inland waters of the state” means all public waters of the state excluding the boundary waters of the Mississippi, Big Sioux, and Missouri rivers.~~

~~14. 17. “Licensed commercial gear” means any commercial gear that is licensed as provided in this chapter and that, when in use, has attached the proper tags attached as provided by this chapter.~~

~~15. 18. “Nonresident or alien” means a person who does not qualify as a resident of the state of Iowa either because of a bona fide residence in another state or because of citizenship of a country other than the United States. However, “alien” does not include a person who has applied for naturalization papers as defined in section 483A.1A.~~

~~16. 19. “Resident” means a person who is legally subject to motor vehicle registration and driver’s license laws of this state, or who is qualified to vote in an election of this state as defined in section 483A.1A.~~

~~20. “Roe” means fish eggs.~~

~~21. “Roe species” means fish harvested for their eggs. Roe species include but are not limited to shovelnose sturgeon and bowfin and any other fish defined as roe species by the commission by rule.~~

~~17. 22. “Waters of the state” means all of the waters under the jurisdiction of the state.~~

Sec. 23. Section 482.4, Code 2009, is amended to read as follows:

482.4 COMMERCIAL LICENSES AND GEAR TAGS.

1. A person shall not use or operate commercial gear unless at least one an individual is at the site where the commercial gear is being operated who possesses an appropriate valid commercial license, or a designated operator’s license. A commercial license is valid from the date of issue to January 10 of the succeeding calendar year.

2. A commercial fisher may designate a person as a designated operator to lift and to fish with any licensed commercial fishing gear owned by the commercial fisher. A commercial fisher shall not have more than five designated operators. A designated operator’s license shall be assigned to not more than three operators during a year and a designated operator’s

license shall be valid for use only by an operator who possesses the license and has signed the license. The signature of any preceding designated operator who possessed the license shall be crossed out. A designated operator shall not lift or fish any commercial fishing gear without possessing a designated operator's license which is signed by the operator. A designated operator's license which is not signed by the operator in possession of the license is forfeited to the state.

3. A boundary water annual sport trotline license permits the licensee to use a maximum of four trotlines with two hundred hooks in the aggregate. All boundary water sport trotlines shall be tagged with the name and address of the licensee on a metal tag affixed above the waterline.

2. A commercial roe harvester shall possess a valid commercial fishing license and a valid commercial roe harvester license.

4. 3. Commercial fishers and commercial turtle fishers harvesters shall purchase gear tags from the commission to be affixed to each piece of gear in use. Notwithstanding the fee rates for gear tags of under subsection 7 6, the minimum fee for a gear tag is five dollars. All tags are valid for ten years from the date of issue. In addition to the gear tags, all gear shall be tagged with a metal weather-resistant tag showing the name and address of the licensee and whether the gear is fish or turtle gear.

5. 4. All numbered fish gear tags are interchangeable among the different types of commercial fishing gear.

6. 5. Annual license fees are as follows:

a. Commercial fishing fisher, resident	\$ 200.00
b. Commercial fishing fisher, nonresident	\$ 400.00
c. Designated operator Commercial fish helper, resident	\$ 50.00
d. Designated operator Commercial fish helper, nonresident	\$ 100.00
e. Commercial roe buyer, resident	\$ 250.00
f. Commercial roe buyer, nonresident	\$ 500.00
g. Commercial roe harvester, resident	\$ 100.00
h. Commercial roe harvester, nonresident	\$3,500.00
i. Commercial turtle buyer, resident	\$ 200.00
j. Commercial turtle buyer, nonresident	\$ 400.00
e. k. Commercial turtle harvester, resident	\$ 50.00
	100.00
f. l. Commercial turtle harvester, nonresident	\$ 100.00
	400.00
g. m. Commercial mussel fisher turtle helper, resident	\$ 100.00
	50.00
h. n. Commercial mussel buyer, resident	\$1,000.00
turtle helper, nonresident	100.00
i. Commercial mussel buyer, nonresident	\$5,000.00
j. Boundary water sport trotline, resident	\$ 10.00
k. Boundary water sport trotline, nonresident	\$ 20.00
l. Commercial mussel fisher, nonresident	\$2,500.00
m. Commercial mussel helper, resident	\$ 50.00
n. Commercial mussel helper, nonresident	\$ 200.00

7. 6. Commercial fish gear tags are required on the following units of commercial fishing gear at the listed fee:

a. Seine, resident, one gear tag for each 100 feet or fraction thereof	\$ 1.00
b. Seine, nonresident, one gear tag for each 100 feet or fraction thereof	\$ 2.00

c. Trammel net, resident, one gear tag for each 100 feet or fraction thereof	\$	1.00
d. Trammel net, nonresident, one gear tag for each 100 feet or fraction thereof	\$	2.00
e. Gill net, resident, one gear tag for each 100 feet or fraction thereof	\$	1.00
f. Gill net, nonresident, one gear tag for each 100 feet or fraction thereof	\$	2.00
g. Entrapment nets, resident, one gear tag per net	\$	1.00
h. Entrapment nets, nonresident, one gear tag per net	\$	2.00
i. Commercial trotline, resident, one gear tag for each 50 hooks or less	\$	1.00
j. Commercial trotline, nonresident, one gear tag for each 50 hooks or less	\$	2.00
8. <u>7</u> . Turtle trap gear tags are not interchangeable with other commercial gear. Turtle trap gear tag fees are as follows:		
a. Commercial turtle trap, resident, one gear tag per trap	\$	1.00
b. Commercial turtle trap, nonresident, one gear tag per trap	\$	2.00

Sec. 24. Section 482.5, Code 2009, is amended to read as follows:
482.5 COMMERCIAL GEAR.

It is lawful for a person who is legally licensed to harvest commercial fish or commercial turtles to use the commercial fishing gear of a design, construction, size, season, and all other criteria established by the commission for taking those species of fish and turtles designated by the commission by rule.

Sec. 25. Section 482.7, Code 2009, is amended to read as follows:
482.7 GEAR ATTENDANCE.

1. The A commercial fisher, commercial turtle harvester, or commercial roe harvester licensee or a designated operator must be present when lifting commercial gear is operated. A commercial fish helper or commercial turtle helper shall not operate commercial gear except under the direct supervision of a commercial fisher, commercial turtle harvester, or commercial roe harvester. A nonresident commercial turtle helper is licensed only to assist a licensed nonresident commercial turtle harvester. Commercial gear shall be lifted and emptied of catch as provided by the rules of the commission. Constant attendance by the licensee or a designated operator commercial fisher of seines, trammel nets, and gill nets is required when the gear is fished by driving, drive-seining, seining, floating, or drifting methods. Officers of the commission shall may grant a reasonable extension of gear attendance intervals in cases of inclement weather or unsafe conditions only upon the request of a commercial fisher, commercial turtle harvester, or commercial roe harvester specifying why such an extension is necessary.

2. For the purposes of this section, "direct supervision" means that a commercial fisher, commercial turtle harvester, or commercial roe harvester must be in the same boat, within hand-signal distance, or within vocal communication distance, without the help of any electronic or amplifying device, of the commercial fish helper or commercial turtle helper being supervised.

Sec. 26. Section 482.8, subsection 1, Code 2009, is amended to read as follows:

1. It is lawful for licensed commercial fishers, ~~designated operators~~, commercial turtle fish-

ers, and licensed sport trotline fishers ~~harvesters, and commercial roe harvesters~~ to pursue, take, possess, and transport any commercial fish or their parts, bait fish, turtles, frogs, salamanders, leeches, crayfish, or any other aquatic invertebrates for bait unless otherwise prohibited by law.

Sec. 27. Section 482.9, subsections 4 and 7, Code 2009, are amended to read as follows:

4. For a person to lift or to fish licensed commercial gear of another person, except by the licensee and the licensee's designated operators.

7. To block or inhibit navigation through channels with commercial fishing gear unless a minimum of three feet of water depth is maintained over float lines of any entanglement gear or leads to trap nets. Gear shall not block over one-half the width of a navigable channel if there is less than three feet of water over the gear.

Sec. 28. Section 482.10, Code 2009, is amended to read as follows:

482.10 SALE OF COMMERCIAL FISH LICENSES.

1. ~~A person possessing a~~ All persons who commercially take, attempt to take, possess, transport, sell, barter, trade, or buy commercial fish or their parts shall possess an appropriate, valid commercial fishing license or designated operator's license may possess and sell any commercial fish, turtles, or freshwater mussels, or their parts, which have been lawfully taken. This subsection does not apply to an individual who buys commercial fish or their parts from a commercial fisher for personal consumption.

a. ~~A commercial fisher license is required to operate commercial gear and to take, attempt to take, possess, process, transport, or sell any commercial fish, commercial turtles, or turtle eggs.~~

b. ~~A commercial fish helper license is required to assist a commercial fisher or commercial roe harvester in operating commercial gear and in taking, attempting to take, possessing, or transporting commercial fish, roe species, roe, commercial turtles, or turtle eggs. A commercial fish helper is not permitted to buy, sell, barter, or trade commercial fish, roe species, roe, commercial turtles, or turtle eggs. A commercial fish helper license is not required for a person under sixteen years of age to assist a commercial fisher as provided in this paragraph "b".~~

c. ~~A commercial roe harvester license is required to harvest, possess, transport, or sell roe or roe species or their parts. A commercial roe harvester is not permitted to buy, barter, or trade roe or roe species unless in possession of a valid roe buyer license. A commercial roe harvester shall sell roe or roe species only to a commercial roe buyer licensed in this state.~~

d. ~~A commercial roe buyer license is required to buy, barter, or trade roe or roe species for resale.~~

2. ~~All intrastate and interstate shipments of commercial fish, or turtles, or roe or roe species, must be accompanied by a label receipt which shows the name and address of the seller and the kinds, date of sale, and the species, numbers, and pounds of the catches fish, roe species, roe, turtles, or turtle eggs being sold. Individuals purchasing fish, turtles, or mussels from a commercial fisher, turtle fisher, or mussel fisher need not possess a license.~~

Sec. 29. Section 482.11, subsections 1 and 3, Code 2009, are amended to read as follows:

1. ~~A person shall not~~ All persons who commercially take, attempt to take, possess, transport, or sell turtles from the waters of the state without or turtle eggs shall possess an appropriate, valid commercial license. This subsection does not apply to an individual who buys turtles or turtle eggs from a commercial fisher or a commercial turtle harvester for personal consumption.

a. ~~A valid sport fishing license entitles a person~~ commercial turtle harvester license is required to operate commercial gear and to take and, attempt to take, possess a maximum of one hundred pounds of live turtles or fifty pounds of dressed turtles, transport, sell, barter, or trade commercial turtles or turtle eggs. The sale of live or dressed turtles is not permitted with a sport fishing license. Nonresident commercial turtle harvesters shall harvest commercial turtles only from the boundary waters.

b. ~~A commercial turtle helper license is required to take and possess more than one hundred pounds of live or fifty pounds of dressed turtles. The holder of assist a commercial turtle license may sell live or dressed turtles harvester in operating commercial gear, and in taking, attempting to take, possessing, or transporting commercial turtles or turtle eggs. A commercial turtle helper is not permitted to buy, sell, barter, or trade commercial turtles or turtle eggs. A commercial turtle helper license is not required for a person under sixteen years of age to assist a commercial turtle harvester as provided in this paragraph "b".~~

c. ~~A commercial turtle buyer license is required to engage in the business of buying, bartering, or trading commercial turtles or turtle eggs.~~

e. ~~d. A commercial fishing fisher license or a designated operator's license entitles commercial fishers to operate any licensed commercial fishing gear for taking, possessing, or selling and to take, attempt to take, possess, and sell, barter, or trade turtles or turtle eggs taken with such commercial gear.~~

d. ~~An individual possessing a valid commercial turtle license may have the assistance of one unlicensed individual in the commercial taking of turtles.~~

3. ~~The method of taking turtles shall only be by hand, turtle hook, turtle trap, licensed commercial fishing gear, or other means designated by commission rules. Sport fishers may also use hook-and-line in catching turtles.~~

Sec. 30. Section 482.11, subsections 3 and 4, Code 2009, are amended by striking the subsections.

Sec. 31. Section 482.14, Code 2009, is amended to read as follows:

482.14 REPORTS AND RECORDS REQUIRED — INSPECTIONS.

1. ~~All commercial fishers, commercial turtle fishers harvesters, commercial turtle buyers, commercial mussel fishers roe harvesters, and commercial mussel roe buyers shall submit a monthly report supplying all information requested on forms furnished by the commission department. Reports must be received by the commission department no later than the fifteenth day of the following month.~~

2. ~~Commercial fishers shall utilize a dated receipt with at least two parts, with one original and one copy of each receipt, that contains the species, number, and pounds of fish or turtles sold, bartered, or traded. Commercial fishers shall retain a copy of each receipt for five years following the transaction. A purchaser of commercial fish or turtles shall retain a copy of the receipt for as long as the purchaser is in possession of the fish or turtles.~~

3. ~~Commercial turtle harvesters shall utilize a dated receipt with at least two parts, with one original and one copy of each receipt, that contains the species, number, and pounds of turtles sold, bartered, or traded. Commercial turtle harvesters shall retain a copy of each receipt for five years following the transaction. A purchaser of commercial turtles shall retain a copy of the receipt for as long as the purchaser is in possession of the turtles.~~

4. ~~Commercial turtle buyers shall maintain accurate records of all transactions. The records shall contain the date, number, weight, and species of turtles purchased, the name and address of the seller, and the county or pools where the turtles were taken. The records shall be updated monthly. Such records shall be available for examination by employees of the department upon request. A commercial turtle buyer shall only purchase turtles from a licensed commercial fisher or commercial turtle harvester.~~

5. ~~Commercial roe buyers shall utilize a receipt with at least two parts, with one original and at least one copy of each receipt, for each purchase of commercial roe species and roe. The original of the receipt shall be kept by the commercial roe buyer and a copy of the receipt shall be given to the commercial roe harvester selling the commercial roe species or roe. Commercial roe buyers and commercial roe harvesters shall retain such receipts for five years following the date of the transaction.~~

6. ~~Facilities and records of commercial fish buyers, commercial turtle buyers, commercial roe harvesters, and commercial roe buyers shall be open at all reasonable times for inspection by any conservation officer.~~

Sec. 32. Section 483A.1, subsection 1, Code 2009, is amended by adding the following new paragraph:

NEW PARAGRAPH. u. Boundary waters sport
trotrline license, annual \$ 20.50

Sec. 33. Section 483A.1, subsection 2, Code 2009, is amended by adding the following new paragraphs:

NEW PARAGRAPH. ee. Preference point issued
under section 483A.7, subsection 3, paragraph
“b”, or section 483A.8, subsection 3, paragraph “e” \$ 50.00¹

NEW PARAGRAPH. w. Boundary waters sport
trotrline license, annual \$ 40.50

Sec. 34. Section 483A.1A, Code 2009, is amended by adding the following new subsections:
NEW SUBSECTION. 0A. “Boundary waters” means the waters of the Mississippi, Missou-
ri, and Big Sioux rivers.

NEW SUBSECTION. 6A. “Nonresident” means a person who is not a resident as defined
in subsection 7.

NEW SUBSECTION. 6B. “Principal and primary residence or domicile” means the one and
only place where a person has a true, fixed, and permanent home, and to where, whenever the
person is briefly and temporarily absent, the person intends to return. Relevant factors in de-
termining a person’s principal and primary residence or domicile include but are not limited
to proof of place of employment, mailing address, utility records, land ownership records, ve-
hicle registration, and address listed on the person’s state and federal income tax returns. A
person shall submit documentation to establish the person’s principal and primary residence
or domicile to the department or its designee upon request. The department or its designee
shall keep confidential any document received pursuant to such a request if the document is
required to be kept confidential by state or federal law.

Sec. 35. Section 483A.1A, subsection 7, Code 2009, is amended to read as follows:

7. “Resident” means a natural person who meets any of the following criteria during each
year in which the person claims status as a resident:

a. Has physically resided in this state at least thirty as the person’s principal and primary
residence or domicile for a period of not less than ninety consecutive days immediately before
applying for or purchasing a resident license, tag, or permit under this chapter and has been
issued an Iowa driver’s license or an Iowa nonoperator’s identification card. A person is not
considered a resident under this paragraph if the person is residing in the state only for a spe-
cial or temporary purpose including but not limited to engaging in hunting, fishing, or trap-
ping.

b. Is a full-time student at either of the following:

(1) an An accredited educational institution located in this state and resides in this state
while attending the educational institution.

(2) An accredited educational institution located outside of this state, if the person is under
the age of twenty-five and has at least one parent or legal guardian who maintains a principal
and primary residence or domicile in this state.

c. A Is a student who qualifies as a resident pursuant to this paragraph “b” only for the pur-
pose of purchasing any resident license specified in section 483A.1 or 484A.2.

d. Is a nonresident under eighteen years of age whose parent is a resident of this state.

e. Is a member of the armed forces of the United States who is serving on active duty,
claims residency in this state, and has filed a state individual income tax return as a resident
pursuant to chapter 422, division II, for the preceding tax year, or is stationed in this state.

f. Is registered to vote in this state.

Sec. 36. Section 483A.2, Code 2009, is amended to read as follows:

483A.2 DUAL RESIDENCY.

A resident license shall be limited to persons who do not claim any resident privileges, ex-

¹ See chapter 179, §147 herein

cept as defined in section 483A.1A, subsection 7, paragraphs “b”, “c”, and “d”, and “e”, in another state or country. A person shall not purchase or apply for any resident license or permit if that person has claimed residency in any other state or country.

Sec. 37. Section 483A.7, subsection 3, Code 2009, is amended to read as follows:

3. a. A nonresident wild turkey hunter is required to have a nonresident hunting license and a nonresident wild turkey hunting license and pay the wildlife habitat fee. The commission shall annually limit to two thousand three hundred licenses the number of nonresidents allowed to have wild turkey hunting licenses. Of the two thousand three hundred licenses, one hundred fifty licenses shall be valid for hunting with muzzle loading shotguns only. The commission shall allocate the nonresident wild turkey hunting licenses issued among the zones based on the populations of wild turkey. A nonresident applying for a wild turkey hunting license must exhibit proof of having successfully completed a hunter safety and ethics education program as provided in section 483A.27 or its equivalent as determined by the department before the license is issued.

b. The commission shall assign one preference point to a nonresident whose application for a nonresident wild turkey hunting license is denied due to limitations on the number of nonresident wild turkey hunting licenses available for issuance that year. An additional preference point shall be assigned to that person each subsequent year the person’s license application is denied for that reason. A nonresident may purchase additional preference points pursuant to section 483A.1, subsection 2, paragraph “ee”. The first nonresident wild turkey hunting license drawing each year shall be made from the pool of applicants with the most preference points and continue to pools of applicants with successively fewer preference points until all available nonresident wild turkey hunting licenses have been issued. If a nonresident applicant receives a wild turkey hunting license, all of the applicant’s assigned preference points at that time shall be removed.²

Sec. 38. Section 483A.8, subsections 3, 4, and 5, Code 2009, are amended to read as follows:

3. a. A nonresident hunting deer is required to have a nonresident hunting license and a nonresident deer hunting license and must pay the wildlife habitat fee. In addition, a nonresident who purchases a deer hunting license shall pay a one dollar fee that shall be used and is appropriated for the purpose of deer herd population management, including assisting with the cost of processing deer donated to the help us stop hunger program administered by the commission.

b. A nonresident who purchases an antlered or any sex deer hunting license pursuant to section 483A.1, subsection 2, paragraph “e”, is required to purchase an antlerless deer only deer hunting license at the same time, pursuant to section 483A.1, subsection 2, paragraph “f”.

c. The commission shall annually limit to six thousand the number of nonresidents allowed to have antlered or any sex deer hunting licenses. Of the six thousand nonresident antlered or any sex deer hunting licenses issued, not more than thirty-five percent of the licenses shall be bow season licenses. After the six thousand antlered or any sex nonresident deer hunting licenses have been issued, all additional licenses shall be issued for antlerless deer only. The commission shall annually determine the number of nonresident antlerless deer only deer hunting licenses that will be available for issuance.

d. The commission shall allocate all nonresident deer hunting licenses issued among the zones based on the populations of deer. However, a nonresident applicant may request one or more hunting zones, in order of preference, in which the applicant wishes to hunt. If the request cannot be fulfilled, the applicable fees shall be returned to the applicant. A nonresident applying for a deer hunting license must exhibit proof of having successfully completed a hunter safety and ethics education program as provided in section 483A.27 or its equivalent as determined by the department before the license is issued.

e. The commission shall assign one preference point to a nonresident whose application for a nonresident antlered or any sex deer hunting license is denied due to limitations on the number of nonresident antlered or any sex deer hunting licenses available for issuance that year. An additional preference point shall be assigned to that person each subsequent year the per-

² See chapter 179, §147 herein

son's license application is denied for that reason. A nonresident may purchase additional preference points pursuant to section 483A.1, subsection 2, paragraph "ee". The first nonresident antlered or any sex deer hunting license drawing each year shall be made from the pool of applicants with the most preference points and continue to pools of applicants with successively fewer preference points until all available nonresident antlered or any sex deer hunting licenses have been issued. If a nonresident applicant receives an antlered or any sex deer hunting license, all of the applicant's assigned preference points at that time shall be removed.

4. The commission may provide, by rule, for the issuance of an additional antlerless deer hunting license to a person who has been issued an antlerless deer hunting license. The rules shall specify the number of additional antlerless deer hunting licenses which may be issued, and the season and zone in which the license is valid. The fee for an additional antlerless deer hunting license shall be ten dollars for residents.

5. A nonresident owning land in this state may apply for a nonresident antlered or any sex deer hunting license, and the provisions of subsection 3 shall apply. However, if a nonresident owning land in this state is unsuccessful in obtaining one of the nonresident antlered or any sex deer hunting licenses, the landowner shall be given preference for one of the antlerless deer only nonresident deer hunting licenses available pursuant to subsection 3. A nonresident owning land in this state shall pay the fee for a nonresident antlerless only deer hunting license and the license shall be valid to hunt on the nonresident's land only. If one or more parcels of land have multiple nonresident owners, only one of the nonresident owners is eligible for a nonresident antlerless only deer hunting license. If a nonresident jointly owns land in this state with a resident, the nonresident shall not be given preference for a nonresident antlerless only deer hunting license. The department may require proof of land ownership from a nonresident landowner applying for a nonresident antlerless only deer hunting license.

Sec. 39. Section 483A.8A, Code 2009, is amended to read as follows:

483A.8A DEER AND WILD TURKEY HARVEST REPORTING SYSTEM.

1. The commission shall provide, by rule, for the establishment of a deer and wild turkey harvest reporting system for the purpose of collecting information from deer hunters concerning the deer and wild turkey population in this state. Each person who is issued a deer or wild turkey hunting license in this state shall report such information pursuant to this section. Information collected by the commission pursuant to the deer and wild turkey harvest reporting system from a deer hunter who takes a deer or wild turkey shall be limited to the following:

- a. The county where the deer or wild turkey was taken.
- b. The season during which the deer or wild turkey was taken.
- c. The sex of the deer or wild turkey taken.
- d. The age of the deer or wild turkey taken.
- e. The type of weapon used.
- f. The hunting license number of the hunter.
- g. The number of days the hunter hunted.
- h. The total number of deer or wild turkey taken by the hunter.

2. The deer and wild turkey harvest reporting system established by the commission shall utilize and is limited to utilizing one or more of the following methods of reporting deer or wild turkey taken by hunters:

- a. A toll-free telephone number.
- b. A postcard.
- c. Reporting at an electronic licensing location.
- d. Electronic internet communication.

Sec. 40. NEW SECTION. 483A.9A COMBINATION PACKAGES OF LICENSES.

1. The commission is authorized, pursuant to rules adopted under chapter 17A, to develop combination packages of licenses in order to offer incentives to residents to purchase additional licenses or for the specific purpose of increasing sales of licenses that will help to recruit or retain hunters, anglers, and trappers in the state.

2. The total cost of each combination package of licenses offered shall be less than the total cost of the licenses if each was purchased separately.

Sec. 41. Section 483A.10, Code 2009, is amended to read as follows:

483A.10 ISSUANCE OF LICENSES.

1. The licenses and combination packages of licenses issued pursuant to this chapter shall be issued by the department or the license agents as specified by rules of the commission. A county recorder may issue licenses or combination packages of licenses subject to the rules of the commission.

2. The rules shall include the application procedures as necessary. The licenses and combination packages of licenses shall show the total cost of the license or combination package of licenses, including a writing fee to be retained by the license agent and any administrative fees to be forwarded to the department, if applicable. A person authorized to issue a license or combination package of licenses or collect a fee pursuant to this chapter or chapter 484A shall charge the fee specified in this chapter or chapter 484A only plus a writing fee and administrative fee, if applicable.

Sec. 42. Section 483A.12, Code 2009, is amended to read as follows:

483A.12 FEES.

1. The license agent shall be responsible for all fees for the issuance of hunting, fishing, and fur harvester licenses, and combination packages of licenses sold by the license agent. All unused license blanks shall be surrendered to the department upon the department's demand.

2. A license agent shall retain a writing fee of fifty cents from the sale of each license or combination package of licenses except that the writing fee for a free deer or wild turkey license as authorized under section 483A.24, subsection 2, shall be one dollar. If a county recorder is a license agent, the writing fees retained by the county recorder shall be deposited in the general fund of the county.

Sec. 43. NEW SECTION. 483A.28 NONCOMMERCIAL HARVEST OF AQUATIC SPECIES.

1. A boundary waters sport trotline license entitles the licensee to use a maximum of four trotlines with two hundred hooks in the aggregate and only on boundary waters. All boundary waters sport trotlines shall be tagged with the name and address of the licensee on a weather-resistant tag provided by the licensee and affixed above the waterline. A boundary waters sport trotline licensee is not permitted to sell, barter, or trade fish or turtles taken pursuant to the license.

2. A valid fishing license issued pursuant to this chapter entitles the licensee to take and possess a maximum of one hundred pounds of live turtles or fifty pounds of dressed turtles. Any unattended fishing gear used to take turtles pursuant to a fishing license shall be tagged with the name and address of the licensee on a weather-resistant tag provided by the licensee and affixed above the waterline. A fishing licensee is not permitted to sell, barter, or trade live or dressed turtles taken pursuant to the license.

3. A valid fishing license issued pursuant to this chapter entitles the licensee to take and possess a maximum amount of mussels or shells daily as authorized by rule under the authority of sections 456A.24, 481A.38, and 481A.39. A fishing licensee shall not sell, barter, or trade freshwater mussels or shells taken pursuant to the fishing license.

Sec. 44. Section 484B.10, Code 2009, is amended by adding the following new subsection:

NEW SUBSECTION. 3. A nonresident youth under sixteen years of age may hunt game birds on a licensed hunting preserve upon securing an annual hunting preserve license restricted to hunting preserves only for a license fee of five dollars and payment of the wildlife habitat fee. A nonresident youth is not required to complete the hunter safety and ethics education course to obtain a hunting preserve license pursuant to this subsection if the youth is accompanied by a person who is at least eighteen years of age, is qualified to hunt, and pos-

sesses a valid hunting license. During the hunt, the accompanying adult must be within arm's reach of the nonresident youth.

Sec. 45. Section 805.8B, subsection 3, paragraphs c, d, and n, Code 2009, are amended to read as follows:

c. For violations of sections 481A.6, 481A.21, 481A.22, 481A.26, 481A.50, 481A.56, 481A.60 through 481A.62, 481A.83, 481A.84, 481A.92, 481A.123, 481A.145, subsection 3, sections ~~482.7, 483A.7, 483A.8, 483A.23, and 483A.24, and 483A.28~~, the scheduled fine is twenty-five dollars.

d. For violations of sections 481A.7, 481A.24, 481A.47, 481A.52, 481A.53, 481A.55, 481A.58, 481A.76, 481A.90, 481A.91, 481A.97, 481A.122, 481A.126, 481A.142, 481A.145, subsection 2, ~~482.5, 482.7~~, sections 482.8, ~~482.10~~, and 483A.37, the scheduled fine is fifty dollars.

n. For violations of section 482.11 ~~relating to turtles~~, the scheduled fine is one hundred dollars.

(1) ~~For commercial turtle violations, the scheduled fine is one hundred dollars.~~

(2) ~~For sport turtle violations, the scheduled fine is fifty dollars.~~

Sec. 46. Section 805.8B, subsection 3, paragraph o, Code 2009, is amended by striking the paragraph.

Sec. 47. Section 805.8B, subsection 3, paragraph p, subparagraph (5), Code 2009, is amended to read as follows:

(5) For a license or permit costing more than fifty dollars but less than one hundred dollars, the scheduled fine is one hundred dollars.

(6) For a license or permit costing one hundred dollars or more, the scheduled fine is two times the cost of the original license or permit.

Sec. 48. Sections 482.12 and 483A.25, Code 2009, are repealed.

Sec. 49. UPLAND GAME BIRD STUDY ADVISORY COMMITTEE. An upland game bird study advisory committee is established for the purpose of studying the best ways to restore sustainable and socially acceptable populations of pheasants and quail in the state to maximize the economic value of upland game bird hunting to Iowa's economy while balancing the needs of the agricultural industry.

1. The advisory committee shall be composed of the following members:

a. One representative from each of the following organizations or entities who, if possible, is involved with policy decisions for that organization or entity, to be appointed by the governor:

(1) Iowa association of county conservation boards.

(2) Iowa farm bureau federation.

(3) Iowa farmers union.

(4) Iowa conservation alliance.

(5) Pheasants forever.

(6) Quails forever.

(7) Iowa hospitality association.

(8) Izaak Walton league.

(9) Iowa realtors association.

(10) The department of transportation.

(11) Iowa chapter of the sierra club.

(12) Iowa sportsmen's federation.

(13) Outdoor writer's association.

(14) A person who represents a farm land management company.

(15) Two persons who are farmers, one who farms in northern Iowa and one who farms in southern Iowa.

(16) Two persons who hunt upland game birds, one who resides in northern Iowa and one who resides in southern Iowa.

b. Two legislative staff members, one from the staff of United States Senator Tom Harkin and one from the staff of United States Senator Charles Grassley, or their designees.

c. The director of the department of natural resources, or a designee.

d. The secretary of agriculture, or a designee.

e. The director of the department of economic development, or a designee.

f. A representative of the United States fish and wildlife service.

g. The executive director of the farm service agency, or a designee.

i. A member of the state soil conservation committee, or a designee.

j. A representative of the Iowa state university fisheries and wildlife cooperative unit.

k. Two members of the senate, one of whom is appointed by the majority leader of the senate and one of whom is appointed by the minority leader of the senate.

l. Two members of the house of representatives, one of whom is appointed by the speaker of the house of representatives and one of whom is appointed by the minority leader of the house of representatives.

2. The director of the department of natural resources or the director's designee shall serve as the chairperson of the advisory committee.

3. Legislative members of the committee are eligible for per diem and reimbursement of actual expenses as provided in section 2.10.

4. The committee shall review, analyze, and make recommendations on issues relating to the state's upland game bird population, including but not limited to the following:

a. The current status of Iowa's upland game bird populations and harvest and habitat management programs.

b. Current farm programs and their impact on upland game bird populations.

c. The economic impact and value of Iowa's upland game bird populations to Iowa.

d. Upland game bird population challenges and programs in other midwestern states.

e. New and innovative ways to restore sustainable populations of Iowa's upland game birds.

f. An assessment of public opinion concerning the impact and value of Iowa's upland game bird populations.

5. The advisory committee shall complete its deliberations in December 2009 and submit a final report to the governor and the general assembly summarizing the committee's activities, analyzing the issues studied, and including any other information or recommendations that the committee deems relevant and necessary by January 10, 2010. Copies of the final report shall be sent to the national resource conservation service, the United States fish and wildlife service, and to members of Iowa's congressional delegation.

Sec. 50. EFFECTIVE DATE. The section of this Act establishing the upland game bird study advisory committee, being deemed of immediate importance, takes effect upon enactment.

Approved May 22, 2009

CHAPTER 145**INSURANCE AND OTHER MATTERS
REGULATED BY THE INSURANCE DIVISION***H.F. 723*

AN ACT relating to various matters under the purview of the insurance division of the department of commerce including the uniform securities Act; insurance division; articles of incorporation filing requirements; viatical settlements contracts; life insurance companies and associations; long-term care insurance; long-term care asset disregard incentives; insurance other than life; insurance guaranty association; county mutual insurance associations; state mutual insurance associations; consolidation, merger, and reinsurance; and cemetery and funeral merchandise and funeral services; and providing for an immediate effective date and retroactive applicability.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 249A.35, Code 2009, is amended to read as follows:

249A.35 PURCHASE OF ~~CERTIFIED~~ QUALIFIED LONG-TERM CARE INSURANCE POLICY — COMPUTATION UNDER MEDICAL ASSISTANCE PROGRAM.

A computation for the purposes of determining eligibility under this chapter concerning an individual who is the beneficiary of a certified qualified long-term care insurance policy under chapter 514H shall include consideration of the asset disregard provided in section 514H.5.

Sec. 2. Section 502.409, subsection 1, Code 2009, is amended to read as follows:

1. WITHDRAWAL OF REGISTRATION. Withdrawal of registration by a broker-dealer, agent, investment adviser, or investment adviser representative becomes effective sixty days after the filing of the application to withdraw or within any shorter period as provided by rule adopted or order issued under this chapter unless a revocation or suspension proceeding is pending when the application is filed. If a proceeding is pending, withdrawal becomes effective when and upon such conditions as required by rule adopted or order issued under this chapter. The administrator may institute a ~~revocation or suspension proceeding~~ disciplinary action under section 502.412, including an action to revoke, suspend, condition, or limit the registration of a registrant, censure, impose a bar, or impose a civil penalty, within one year after the withdrawal became effective automatically and issue a ~~revocation or suspension~~ disciplinary order as of the last date on which registration was effective if a proceeding is not pending.

Sec. 3. Section 505.8, subsection 6, Code 2009, is amended to read as follows:

6. The commissioner shall provide assistance to the public and to consumers of insurance products and services in this state.

a. The commissioner shall accept inquiries and complaints from the public regarding the business of insurance. The commissioner or the commissioner's designee may respond to inquiries and complaints, and may examine or investigate such inquiries and complaints to determine whether laws in this subtitle and rules adopted pursuant to such laws have been violated.

a. b. The commissioner shall establish a bureau, to be known as the "consumer advocate bureau", which shall be responsible for ensuring fair treatment of consumers by persons in the business of insurance and for preventing unfair or deceptive trade practices in the insurance marketplace and by persons under the jurisdiction of the commissioner.

b. (1) The commissioner, with the advice of the governor, shall appoint a consumer advocate who shall be knowledgeable in the area of insurance and particularly in the area of consumer protection. The consumer advocate shall be the chief administrator of the consumer advocate bureau.

c. (2) The consumer advocate bureau shall may receive and may investigate consumer